

Claimant contends he was injured on the premises of the respondent and, therefore, he is entitled to compensation benefits because this is an exception to the “going and coming” rule found at K.S.A. 1998 Supp. 44-508(f). In addition, claimant contends his claim is compensable because his employment would not have ended until he reached his parked vehicle in the parking lot.

**FINDINGS OF FACT**

After reviewing the preliminary hearing record and considering the briefs of the parties, the Appeals Board finds as follows:

- (1) Claimant was employed by the respondent as a driver of a van transporting railroad crews to and from the railroad trains and their motels.
- (2) On July 7, 1998, claimant had a scheduled day off from work.
- (3) Claimant decided to go to his place of employment to pick up his paycheck.
- (4) Claimant drove to the respondent's office located on the second floor of a building owned by Southern Pacific Railroad at Eighteenth and Kansas Avenue, Wyandotte County, Kansas.
- (5) Respondent's regional manager was at the office and notified claimant that his paycheck was at another office located in Wyandotte County, Kansas. The regional manager also asked claimant to pick up another employee's paycheck and return the employee's paycheck to the Southern Pacific building.
- (6) Claimant picked up both paychecks and returned the other employee's paycheck to the Southern Pacific building.
- (7) In order to get to and from respondent's office located in the Southern Pacific building, there was one set of stairs.
- (8) After claimant returned the other employee's paycheck, he started down the stairs to the parking lot.
- (9) Claimant tripped on the bottom stair, landed wrong, and broke his right ankle.
- (10) Claimant testified, if he had not been asked to pick up the other employee's paycheck and return it to respondent's office located in the Southern Pacific building, he would have gone home and not returned to respondent's office.

**CONCLUSIONS OF LAW**

- (1) An injury to a worker is not compensable under the Kansas Workers Compensation Act if the injury occurs while the worker is on his way to assume the duties of employment or having left such duties. But an employee shall not be construed as being on the way to assume the duties of employment or having left such duties if the worker is on the premises of the employer. See K.S.A. 1998 Supp. 44-508(f).

(2) The term “premises” as used in K.S.A. 44-508(f) is a place controlled by the employer. See Thompson v. Law Offices of Alan Joseph, 256 Kan. 36, Syl. ¶ 1, 883 P.2d 768 (1994).

(3) The Appeals Board concludes claimant was not on the respondent’s premises at the time of the injury. There is no evidence in the record at this stage of the proceedings that proves the respondent had any control over the stairs located in the building owned by Southern Pacific Railroad.

(4) If claimant was performing a duty associated with his employment when he brought the other employee’s paycheck back to respondent’s office, the duty was complete at that time and he was on his way home, an activity the Kansas Legislature has made not compensable. See K.S.A. 1998 Supp. 44-508(f).

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Preliminary Decision entered by Administrative Law Judge Robert H. Foerschler dated January 25, 1999, should be, and hereby is, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of March 1999.

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BOARD MEMBER

c: Timothy M. Alvarez, Kansas City, MO  
Thomas Clinkenbeard, Kansas City, MO  
Robert H. Foerschler , Administrative Law Judge  
Philip S. Harness, Director